United Nations

A/HRC/30/64

General Assembly

Distr.: General
15 September 2015

Original: English

Human Rights Council
Thirtieth session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Panel discussion on the effects of terrorism on the enjoyment by all persons of human rights and fundamental freedoms*

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 28/17. It provides a summary of the panel discussion on the effects of terrorism on the enjoyment by all persons of human rights and fundamental freedoms, held on 30 June 2015, during the twenty-ninth session of the Council.

* Late submission

GE.15-15630(E)

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I. Introduction

1. Pursuant to its resolution 28/17 entitled "Effects of terrorism on the enjoyment of human rights", the Human Rights Council convened a panel discussion on the effects of terrorism on the enjoyment by all persons of human rights and fundamental freedoms, on 30 June 2015.[1]

2. The panel discussion was chaired and moderated by the Vice-President of the Human Rights Council, Mothusi Bruce Rabasha Palai. The United Nations Deputy High Commissioner for Human Rights, Flavia Pansieri, delivered the opening address. The panellists were Ben Emmerson, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Steven Siqueira, Deputy Director, Counter-Terrorism Implementation Task Force Office and the United Nations Counter-Terrorism Centre; and Mauro Miedico, Chief of the Implementation Support Section III, Terrorism Prevention Branch, United Nations Office on Drugs and Crime (UNODC).

3. Also in resolution 28/17, the Human Rights Council requested the United Nations High Commissioner for Human Rights to prepare a report on the panel discussion in the form of a summary and to submit it to the Council at its thirtieth session. The present report is submitted pursuant to that request.

II. Opening statement

4. In her opening statement, the United Nations Deputy High Commissioner stated that terrorism destabilized Governments, undermined societies, jeopardized peace and security and threatened economic and social development, all of which had serious implications for the enjoyment of human rights by all. Terrorist attacks had devastating consequences for victims, often directly impacting their rights to life, liberty and security. However, direct victims were not the only ones affected; relatives and entire communities lived in fear and suffered long-standing trauma following attacks. The recent spate of attacks illustrated the direct impact of terrorism on human rights.

5. The human rights of victims of terrorism needed to be acknowledged and their loss and dignity recognized. Victims needed immediate assistance and long-term medical, psychosocial and financial support to compensate for the destruction of their property or loss of their livelihood and jobs. Victims also had the right to equal access to justice and an effective remedy, with a view to benefiting from adequate and prompt reparation for the harm suffered.

6. For counter-terrorism efforts to be successful, dealing with the aftermath of terrorism was not sufficient, rather prevention was necessary and critical. Prevention of terrorism required understanding the conditions conducive to such abhorrent acts, including a deeper appreciation of the linkages between such conditions and the lack of respect for human rights, corruption, impunity, absence of rule of law and lack of development and prospects for a peaceful future. Terrorism tended to thrive in situations of prolonged armed conflict, chronic instability and systemic human rights violations, including discrimination.

[1] All written contributions to the discussion are available at https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/29thSession/Pages/OralStatement.aspx?MeetingNumber=37&MeetingDate=Tuesday,30 June 2015.

exclusion and lack of participation in political life and the conduct of public affairs and socioeconomic marginalization. Those problems were often compounded by a lack of accountability – with impunity of perpetrators prevailing in many situations –, a lack of access to justice and a remedy for victims of human rights violations and abuses. The Deputy High Commissioner emphasized that, in that context, States had the primary responsibility for investigating and, where evidence warranted, prosecuting the perpetrators of violations in full compliance with international norms, in particular those regarding due process and fair trial.

7. Through the United Nations Global Counter-Terrorism Strategy adopted by the General Assembly in September 2006 (see General Assembly resolution 60/288), Member States had agreed a holistic, integrated and effective approach to counter terrorism, with human rights and rule of law as its basis. The Deputy High Commissioner noted, however, that the Strategy had not yet translated into uniform practice on the ground. She also noted that measures taken by a number of States in the wake of recent security threats continued to raise serious human rights concerns. In line with the Strategy and international law, regular review of counter-terrorism laws and practices was critical to ensure that they are human rights-compliant and, in particular, specific, necessary, effective and proportionate. The Deputy High Commissioner recalled that such review was particularly important given that some States had enacted broadly formulated counter-terrorism legislation that did not comply with the principle of legality because it lacked sufficiently precise definitions of what constituted terrorist acts. The breadth and scope of that type of legislation allowed for arbitrary or discriminatory enforcement by authorities. The application of the death penalty to broadly construed terrorism-related offences also remained a serious concern, especially where such offences did not rise to the level of "most serious crimes", the threshold required by article 6 of the International Covenant on Civil and Political Rights. The Deputy High Commissioner also noted that some States sought to bypass the criminal justice system by using administrative detention, other forms of detention and control orders on persons suspected of terrorism, without respecting the safeguards enshrined in international law. Such laws had been used to curb otherwise legitimate activities and to target journalists, human rights defenders, minority groups and other individuals, some of whom had been arbitrarily detained and tortured or subjected to cruel, inhuman and dehumanizing treatment or punishment while in custody.

8. Noting that the rights to freedom of opinion and expression constitute the foundation for every free and democratic society, the Deputy High Commissioner discussed the relationship between counter-terrorism laws and those rights. In accordance with international human rights law, any restriction on freedom of expression must be clearly and narrowly defined and must meet the three-part test of legality, proportionality and necessity. Offences such as "encouragement of terrorism", "extremist activity", "praising" "glorifying" or "justifying" terrorism must be clearly defined so as not to interfere unnecessarily and disproportionately with freedom of expression.

9. Lastly, the Deputy High Commissioner recalled that experience at the national level showed that protecting human rights and ensuring respect for the rule of law contributed to countering terrorism, in particular by creating a climate of trust between the State and those under its jurisdiction and by supporting the resilience of communities to threats of violent radicalism. Conversely, undue restrictions on human rights had proven corrosive to the rule of law and conducive to a climate of impunity and might therefore undermine the effectiveness of counter-terrorism measures. It was time to stop basing policy on the false dichotomy between security and human rights, which, she emphasized, were complementary and mutually reinforcing. States should focus on policies and initiatives that increase the enjoyment of all rights — not just civil and political rights, but also economic, social and cultural rights. Swiftly addressing actual or perceived marginalization or exclusion of particular communities was crucial.

III. Statements by panellists

10. The panellists emphasized the complementarity and mutually reinforcing nature of security and human rights and stressed that respect for international law, including international human rights law, was of key importance when taking measures to combat terrorism. The devastating impact of terrorism on the enjoyment of human rights and the importance of recognizing the rights of victims of terrorism were also noted.

11. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism endorsed the Deputy High Commissioner's opening remarks and stated that the core of his mandate was to ensure the protection and promotion of human rights while countering terrorism. He emphasized the importance of the core guiding principles of the United Nations Global Counter-Terrorism Strategy, which put the rule of law and promotion of human rights at the front and centre of all counter-terrorism action.

12. The Special Rapporteur stated that victims of terrorism deserved more attention. He considered it striking that, despite the proliferation of counter-terrorism agreements, none of those negotiated under the auspices of the United Nations focused on the rights of victims. In his first report to the Human Rights Council in 2012 (A/HRC/20/14), the Special Rapporteur proposed framework principles for securing the human rights of victims of terrorism, focusing on effective prevention, investigation, due process rights and the responsibility of States to provide reparations to victims. He urged all States to recognize that human rights violations in the context of terrorism could be committed by State and non-State actors alike. He welcomed the high-level conference planned by the Counter-Terrorism Implementation Task Force Office in the coming months to discuss and move forward on the framework principles. However, he noted that highly influential non-governmental organizations (NGOs) and States rejected the notion that terrorist acts could amount to human rights violations. From a victim-centred perspective, he believed that the stance that only States could commit human rights violations was dangerous and that human rights law must keep pace with the changing world in order to retain its validity. To deny that victims of terrorism have suffered grave and often gross and systematic human rights violations would be to render them prisoners of doctrine.

13. In his report on the human rights challenges posed by the fight against the Islamic State in Iraq and the Levant (ISIL) (A/HRC/29/51), the Special Rapporteur noted the failure of the Security Council to take effective action to enforce international law and protect civilians in areas under ISIL control and stressed the need for the international coalition of States currently engaged in military action against ISIL in Iraq and the Syrian Arab Republic to ensure that effective steps were taken to minimize the risk of civilian casualties and to be transparent about such losses when they occur. While there were some human rights concerns in respect of the conduct of international coalition forces in Iraq, he found that, based on the available evidence, the coalition-inflicted casualties paled in comparison to the horrific crimes systematically committed by ISIL. The report provides an assessment of the scale of the violations of international law committed by ISIL in the territory it occupies, which include crimes reportedly amounting to genocide, crimes against humanity, serious violations of international humanitarian law and gross violations of international human rights law. The findings of the Independent International Commission of Inquiry on the Syrian Arab Republic, the United Nations Assistance Mission for Iraq and the Office of the United Nations High Commissioner for Human Rights (OHCHR) showed clear evidence of persecution of religious and ethnic minority communities, including the Yezidis; arbitrary executions of community leaders, journalists, intellectuals and others; mass disappearances; forced religious conversion; and systematic torture. The enforcement of summary justice in areas under ISIL control included public beheadings, stoning,

amputations, lashes, displays of mutilated corpses as a purported deterrent, systematic gender-based violence, rape, sexual slavery and the targeting of sexual minorities. Children had been subjected to summary executions, arbitrary detention and torture. The Special Rapporteur underlined that those were all crimes and violations of international humanitarian law which amounted to grave human rights violations.

14. The Deputy Director of the Counter-Terrorism Implementation Task Force Office and the United Nations Counter-Terrorism Centre noted the continuing need to address the ever-changing phenomenon of terrorism in the lead-up to the tenth anniversary of the United Nations Global Counter-Terrorism Strategy in 2016. He reaffirmed the importance of ensuring that responses and effective solutions to terrorism remained grounded within the four pillars of the Strategy, and highlighted that the Strategy considered security and human rights as complementary and mutually reinforcing.

15. The Deputy Director stated that the Counter-Terrorism Implementation Task Force comprised 36 United Nations and affiliated entities. The main functions of the Counter-Terrorism Implementation Task Force Office was to coordinate and facilitate United Nations counter-terrorism initiatives and activities and provide support to Member States in preventing and combating terrorism. He noted the key role played by OHCHR within the Counter-Terrorism Implementation Task Force Office to ensure that its programmatic work was based on the international human rights legal framework. The establishment of the United Nations Counter-Terrorism Centre within the Counter-Terrorism Implementation Task Force Office in 2011, with the support of the Government of Saudi Arabia and other donors, has allowed it to better support capacity-building efforts for Member States under the rubric of the United Nations Global Counter-Terrorism Strategy. Both the Counter-Terrorism Implementation Task Force Office and the United Nations Counter-Terrorism Centre give high priority to the protection of human rights while combating terrorism and to supporting victims of terrorism, in addition to other strategic priorities.

16. Terrorist groups are tearing apart the social fabric of countries and the four pillars of the United Nations. Human rights abuses and violations are carried out on an unprecedented scale, creating flows of refugees and internally displaced persons not seen since the end of the Second World War. ISIL in particular has committed egregious human rights violations and must be held to account.

17. National, regional and international efforts to respond to terrorism through military or other means had sometimes been disproportionate, resulting in violations of human rights and a lack of protection of civilians and civilian infrastructure, which had effectively provided terrorist groups with fuel for more hatred. Respect for human rights must remain the foundation of counter-terrorism efforts. In that context, the entities of the Counter-Terrorism Implementation Task Force would continue to support efforts to strengthen the responses of Member States to terrorist acts to ensure that they are grounded in respect for international human rights law, international humanitarian law and international refugee law, including through capacity-building and training.

18. The Counter-Terrorism Implementation Task Force Office coordinates 11 Working Groups that deal with various issues, including border security, countering the financing of terrorism, security for critical infrastructure, support for human rights while countering terrorism and victims of terrorism. Those Working Groups have increased the capacity of Member States to counter terrorism through a number of important initiatives. For example, the Working Group on promoting and protecting human rights and the rule of law seeks to build the capacity of law enforcement institutions in Member States through a training curriculum based on human rights-compliant approaches within a counter-terrorism context on issues such as detention, special investigative techniques, use of force and investigative interviewing. The Counter-Terrorism Implementation Task Force Office has already piloted training in Nigeria, and will soon roll out training sessions in other interested Member

States. With regard to prevention, the Secretary-General is expected to launch a plan of action on preventing violent extremism later in 2015. It is aimed at reinvigorating the universal core values of the international community, based on the Charter of the United Nations and the Universal Declaration of Human Rights, and to present concrete proposals on how the United Nations system and Member States could best approach the challenge of violent extremism leading to terrorism.

19. The recent terrorist attacks in Tunisia, Kuwait, France and Egypt further emphasized the need for States to uphold their obligation to ensure security for those under their jurisdiction. However, this must not be at the expense of their human rights obligations under international law. Human rights violations can lead to further radicalization towards violence, especially of youth. In particular, the rights to the freedoms of speech, association and assembly should not be arbitrarily restricted, as they are fundamental to helping societies to combat violent extremism. On 16 June 2015, the United Nations Counter-Terrorism Centre organized an online panel discussion entitled "An exit for extremists: digital solutions for online counter-radicalization", in which Google Ideas, Facebook and civil society participated. The panel discussed how to handle online content that called for violence and how to monitor material communicated through the networks, while at the same time ensuring privacy, freedom of expression and access to information. The discussion highlighted the importance of being more inclusive and engaging more with the private sector.

20. With regard to victims of terrorism, the international community was urged to acknowledge that it was often ordinary individuals who bore the brunt of acts of terrorism. The Counter-Terrorism Implementation Task Force Office established a portal[2] to provide victims of terrorism with the necessary resources and information, including those provided by Member States and civil society. The Counter-Terrorism Implementation Task Force Office and the United Nations Counter-Terrorism Centre were deeply committed to ensuring that victims were at the centre of their activities. To that end, both the Counter-Terrorism Implementation Task Force Office and the United Nations Counter-Terrorism Centre had promoted solidarity for victims of terrorism, provided assistance and rehabilitative services and ensured that victims of terrorism had a voice in counter-narratives to violent extremism. The Counter-Terrorism Implementation Task Force Office also planned to provide training in order to empower victims of terrorism to be part of effective counter-narrative strategies.

21. The Chief of Implementation Support Section III referred to the ways in which terrorism threatened the core values of the United Nations and represented an assault on the rule of law, human rights and international peace and security. He emphasized the crucial role of technical assistance and capacity-building in preventing and countering terrorism, the need to do more to protect and to take preventive action and the importance of increasing the capacity of States to ensure human rights and rule of law-based responses to terrorism.

22. Terrorism violated the most basic human rights, including the right to life, among other civil and political rights, as well as economic, social and cultural rights. The importance of the right to security of person was a fundamental right enshrined in article 3 of the Universal Declaration of Human Rights. Unfortunately, security was often wrongly perceived as limiting human rights. He quoted a Tunisian activist, Amira Yahyaoui, who had recently stated:

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[2] See www.un.org/victimsofterrorism/en

> For human rights activists, security is a taboo. Security means you are anti-human rights. But that gives space to those who are not very keen on human rights to take care of this topic. I think that people from a human rights background should be more involved in security issues, and stop thinking that security is a taboo. If we want to defend people's rights, the first thing we need to defend is their right to live and not to die. That's the first step.[3]

23. The international community now recognized the important nexus between security and development and their interdependence. The new comprehensive, integrated and universal sustainable development goals should provide an important framework for a United Nations common effort in this area.[4] On the one hand, the new agenda recognizes the need to build peaceful, just and inclusive societies; on the other hand, it is expected that at the summit to be held in September 2015, when the post-2015 development agenda is expected to be adopted, Member States will recognize the need to "strengthen national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime".[5]

24. UNODC supported Member States in implementing the United Nations Global Counter-Terrorism Strategy, in particular its criminal justice aspects. The Terrorism Prevention Branch supported Member States' efforts to ensure effective and efficient criminal justice responses to prevent and counter terrorism, including by developing multi-year cooperation plans with a number of countries.

25. The right to be protected was emphasized as a key aspect of the right to security of person. In recent years, traditional security-oriented approaches had been increasingly recognized as insufficient to effectively address the threat of terrorism, particularly in the medium and long term. UNODC believed that a long-term approach to countering terrorism must encompass prevention, with more focus on the plans and activities of terrorist groups. Such a preventative approach required that lawful investigative and evidentiary mechanisms be established by Member States to facilitate prosecutorial intervention before tragedies occur, while respecting procedural safeguards.

26. Criminalization was an important tool for preventing violent extremism, however, it carried significant risks of arbitrary limitations on the right to the freedoms of expression, religion and association. Therefore, UNODC was enhancing its efforts to assist Member States in developing legislation and criminal justice capacities to punish conduct that spread ideas supportive of violent extremism, while complying with fundamental freedoms. For example, terrorists utilized the Internet to recruit terrorists and incite the commission of acts of terror. The Internet also allowed terrorists to spread their message to a worldwide audience at a low cost. UNODC has developed specialized training programmes that address the facilitation of violent extremism over the Internet.

27. The international community needs to do more in the area of preventing radicalization to violence in prison settings. UNODC assisted Member States in building and reforming their prison systems and in implementing non-custodial sanctions and measures aimed at the prevention of violent extremism in compliance with human rights.

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[3] Amira Yahyaoui, President, Al Bawsala NGO, Tunisia, quoted in Ilya Lozovsky, *A Wake-Up Call for NGOs*, *Foreign Policy*, 5 June 2015, available from http://foreignpolicy.com/2015/06/05/a-wake-up-call-for-ngos-tunisia-arab-spring-oslo-freedom-forum/

[4] For more information on the post-2015 sustainable development goals process, see the United Nations Sustainable Development Knowledge Platform, available at https://sustainabledevelopment.un.org/?menu=1300.

[5] Goal 16 (a) of the proposed sustainable development goals.

28. Policymakers increasingly recognized the important role that victims of terrorism and their stories could play in efforts to counter violent extremism. UNODC integrated programmes on victims of terrorism in its technical assistance to Member States. Strengthening criminal justice responses to support victims enhanced the resilience of States to counter terrorism and violent extremism.

29. Developing the capacity of States to ensure rule of law-based responses to terrorism was underscored as being the most important factor in preventing terrorism and violent extremism. Several General Assembly and Security Council resolutions identified human rights violations as major factors conducive to terrorism, including, to a significant extent, human rights violations committed in the context of countering terrorism. There was often a perception in United Nations forums that the right to security and the security of rights were, by definition, limiting, if not in contradiction with one another. That is a totally faulty perception because both concepts are complementary. There is no security if the right to security of person is not properly recognized and protected. Likewise, there is no right to security of person if the protection and security of all other rights are not ensured. The Chief of Implementation Support Section III concluded by quoting the Secretary-General: "Missiles may kill terrorists. But I am convinced that good governance is what will kill terrorism."[6]

IV. Summary of the discussion

30. During the ensuing discussion, contributions were made by representatives of Albania (on behalf of a group of States), Algeria, Austria, Bahrain, Belgium, China, Cuba, Denmark (on behalf of the Nordic States), Ecuador (on behalf of the Community of Latin American and Caribbean States), Egypt, Estonia, Hungary (on behalf of a group of States), India, Iran (Islamic Republic of), Ireland, Jordan, Kuwait, Morocco, Namibia, the Netherlands, the Niger, Pakistan, Saudi Arabia, Sierra Leone, Switzerland (on behalf of a group of States), the Syrian Arab Republic, the United States of America and Viet Nam, as well as the Council of Europe, the European Union, the Holy See and the International Organization of la Francophonie. Statements by Australia, Brazil, Fiji, Iraq, Lebanon, Libya, Mauritania, Norway, the Russian Federation, South Africa, the Sudan and Tunisia were not delivered owing to lack of time. Copies of their statements were, however, posted on the Human Rights Council extranet.

31. Representatives of the following national human rights institutions and NGOs also took the floor: Human Rights Council of Morocco, Human Rights Watch (in a joint statement with International Service for Human Rights and International Federation for Human Rights Leagues), Al Salam Foundation, CIVICUS World Alliance for Citizen Participation, Friends World Committee for Consultation (in a joint statement with Amnesty International), Organization for Defending Victims of Violence, Arab Commission for Human Rights and Amuta for NGO Responsibility.

A. Effect of terrorism on the enjoyment of human rights

32. Many delegates began their statements by offering condolences to the people of Tunisia, France, Kuwait and Egypt, which had recently suffered terrorist attacks, and the people of the Syrian Arab Republic, Iraq and Nigeria, who were victims of terrorist attacks on an almost daily basis. Most delegates found that terrorism constituted a serious

[6] See the Secretary-General's remarks at the G7 working session on Terrorism, held at Schloss Elmau, Germany, on 8 June 2015.

challenge for all States and a grave threat to international peace and security, and that they had had a dire impact on the ability of all persons to enjoy their human rights. One delegate considered that the international community was experiencing terrorism that was transcending traditional borders in an unprecedented way.

33. Another delegate stated that the effect of terrorism on human rights should be studied because no country was safe from terrorism, as witnessed in Kuwait, Tunisia and France, the week before the discussion, and in Egypt, the day before the discussion, where the Prosecutor General was murdered in a terrorist attack. Some aspects of the resolution, further to which the panel discussion had been convened, were highlighted, for example, focus on the effects of terrorism on the enjoyment of various rights, especially the rights to safety and life, and other political, economic and cultural rights. It was underlined that fighting terrorism and protecting human rights were mutually reinforcing and that effectively combating terrorism required cooperation among all stakeholders.

34. Some delegates noted that terrorism could strike anywhere and at any time and that terrorist acts had very negative effects on the enjoyment of human rights, including depriving individuals of the right to life, liberty, health and security of person, as well as economic, social and cultural rights, including access to food and water, education and health services. One delegate described how terrorist acts had led not only to a heavy death toll, but also to the movement of several thousands of refugees and internally displaced persons in its territory. Another delegate said that attacks on religious establishments undermined the right to freedom of religion and belief and the right to security of person, and led to destruction of private property. The representative of an NGO stated that violent acts by groups of non-State actors against the general population for political purposes constituted abhorrent crimes that, when widespread or systematic, could amount to crimes against humanity.

35. Many delegates pointed out that terrorism was not linked to any religion, ethnic group, nationality or nation. Some specified that spreading fear — which is the aim of terrorism — was contrary to religious teachings and practices, which called for peace. The international community need to ensure that counter-terrorism efforts do not stigmatize certain communities; it was regretted that Muslims were often believed to be a threat.

36. One delegate urged States to adopt and implement multidimensional national strategies for combating terrorism, stating that spreading awareness about human rights and the values of tolerance was critical. Engagement with imams with a view to promoting the ideals of tolerant Islam was highlighted as a powerful tool for fostering a society free of terrorism. The representative of an NGO highlighted that religious leaders could play a role in combating extremism at the local, regional and international levels.

37. Some delegates called for a distinction to be made between State and non-State actors and indicated that, as parties to international human rights treaties, States had obligations to uphold human rights, whereas terrorists were criminals and should be treated as such. One delegate noted that combating terrorism involved political and security issues that would be dealt with more appropriately by the General Assembly and the Security Council; the Human Rights Council should focus on ensuring that any measures taken to combat counter-terrorism do not impact human rights. Another delegate highlighted the importance of the Council being able to reaffirm a united and consensual position on this issue.

B. Combating terrorism while respecting human rights

38. Participants highlighted the obligations of States to protect the human rights of individuals under their jurisdiction and to take counter-terrorism measures that complied

with international law, in particular the right to freedom of expression. They also noted the impact that counter-terrorism measures could have on human rights, including the prohibition of torture and arbitrary detention and the right to a fair trial. The need to comply with the principles of distinction and proportionality in armed conflict under international humanitarian law was also stressed. Those were all principles that needed to be adhered to when preventing terrorism.

39. Many delegates highlighted the complementarity between security and human rights, while acknowledging that current State practices often mistakenly pitted the two principles against one another. One delegate, speaking on behalf of a group of States, said that States must ensure that their actions complied with the Charter of the United Nations, international human rights law, international humanitarian law and international refugee law, by protecting their populations while ensuring fair trials for persons accused of having committed terrorist acts, as well as assisting victims. Another delegate considered that anti-terrorism strategies should safeguard rights and freedoms, while yet another stressed the importance of the prohibition of torture and ill-treatment and of States becoming parties to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and its Optional Protocol.

40. One delegate said that States should deny safe haven to those who incited, planned, financed, supported or committed terrorist attacks. Another delegate noted that, despite United Nations resolutions to combat terrorism over the previous two decades, certain terrorist organizations continued to be financed, including by States, and that that practice must be stopped. One delegate stated that robust and decisive measures needed to be taken in that regard, not only by the countries affected, but also by the international community as a whole. It suggested that the international community commission comprehensive studies on the origins, motives and funding of terrorist groups.

41. Several participants called for all terrorist acts to be punished and for a holistic approach to countering terrorism that required expanding the scope of legal instruments to bring the perpetrators of terrorist acts to justice. In response to questions regarding the responsibility of States to protect populations against widespread and systematic human rights violations by non-State armed groups, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism stressed that accountability must be ensured on both sides of the equation and that public officials engaged in counter-terrorism activities must be brought to justice. With regard to accountability for violations of the rights of victims of terrorism perpetrated by non-State armed groups, the Special Rapporteur stated that, although the Security Council had declared ISIL a threat to international peace and security and had stressed the need to bring perpetrators to justice, it had been very reluctant to authorize military action pursuant to its powers under chapter VII of the Charter of the United Nations or to refer the situation in Iraq and Syrian Arab Republic to the International Criminal Court. He added that the Security Council resolution putting ISIL on the list of terrorist organizations would not prevent it from continuing to commit human rights abuses. The Special Rapporteur also underlined that the time had come to recognize that the permanent members of the Security Council had an obligation to act and that, in the event of reports of genocide, all members of the Council, individually, may have a specific legal responsibility to take action and to refrain from using their veto power to block action to prevent that most serious of international crimes.

42. The Chief of the Implementation Support Section III of UNODC Terrorism Prevention Branch stated that concrete efforts should be made to prevent terrorism, including adhering to the rule of law, which contributed to avoiding radicalization. He recalled that measures to criminalize incitement and recruitment must be fully compatible with the principle of legality. Such measures often relied on intelligence and circumstantial

evidence, which could pose challenges in terms of human rights. Thus, appropriate rule of law-based approaches aligned with the principles of necessity and proportionality must be identified. He also mentioned that UNODC had integrated human rights good practices in its curricula and believed that more engagement with parliamentarians was important.

43. A number of delegates cautioned that attempts to prevent terrorism were unnecessarily and disproportionately infringing on human rights — particularly civil and political rights. One delegate noted that the freedoms of peaceful assembly, expression and association facilitated a range of other human rights and were key elements of open and democratic societies because the ability to share and challenge ideas, and to organize was vital to the health of any society. A society without those rights would stagnate. Under human rights law, any limitations on the freedom of expression must be provided by law and be necessary for respect for the rights or reputation of others or the protection of national security, public order, public health or morals. Any limitations must be in accordance with an appropriate, transparent and legal framework and national security agencies must have appropriate authority and oversight to allow States to respond quickly to threats to national security while respecting their human rights obligations. Another delegate said that State efforts should not constrain civil society and that, when States committed human rights violations in the name of counter-terrorism, they played into the hands of terrorist groups. Other delegates noted that social media had often been used to spread radical messages and for purposes such as incitement to terrorism.

44. Representatives of NGOs and national human rights institutions provided specific examples of instances in which the freedoms of speech, expression and association had been curtailed as States attempted to combat terrorism. Concern at laws on terrorism that lacked the requisite specificity was voiced and reference was made to overly broad counter-terrorism measures which had a negative impact on and arbitrarily restricted human rights and which were in breach of the principle of legality. States should not use counter-terrorism as a smokescreen to stifle dissenting voices and Governments had a responsibility to protect those under their jurisdiction from extremist attacks, but should not use counter-terrorism as a reason to prosecute alleged terrorism offences in mass trials, conduct mass surveillance or pass legislation with large discretionary powers.

45. One delegate, speaking on behalf of a regional group of States, referred to the problematic use of the death penalty in counter-terrorism efforts. Concern was expressed that States resorted to the death penalty for authors of acts of terrorism, even when the offence of terrorism was broadly and vaguely defined. The fact that intergovernmental organizations provided assistance to States that applied the death penalty was highlighted, and the panellists were asked about the steps that United Nations agencies had taken to ensure that the support and assistance they provided did not render them complicit in executions. In response, the Deputy Director of the Counter-Terrorism Implementation Task Force Office and the United Nations Counter-Terrorism Centre stated that the Secretary-General continued to condemn the death penalty in all circumstances and that the work of the Counter-Terrorism Implementation Task Force Office was conducted within the international human rights legal framework. The Chief of Implementation Support Section III stated that UNODC technical assistance interventions integrated protection of human rights in all areas. He noted that UNODC had suspended cooperation with countries that had not respected human rights or democratic principles.

46. One delegate highlighted the need for women's rights to be central to all efforts to counter terrorism, noting that extremists had placed the subordination of women and the denial of their rights at the heart of their strategy. It advocated for the Human Rights Council to continue to advance the promotion and protection of women's full and equal enjoyment of all human rights.

47. With reference to the impact of counter-terrorism measures on international humanitarian law, one delegate stated that the Government had paid a colossal price for the ongoing war on terrorism, and deemed that all States were responsible for avoiding casualties of non-combatants or "collateral damage". The delegate stated that it was vital to ensure respect for the rule of law and due process of law and to avoid illegal practices such as torture, incommunicado detention and extrajudicial killings.

48. Participants noted that, although terrorist acts jeopardized peace and security and threatened social and economic development, the option of launching wars in the name of countering terrorism must be meticulously considered. The so-called "war on terrorism" had fostered an ideology of fear and repression that ultimately created enemies and promoted violence. Also, some Governments used terrorism as an excuse to subvert political opponents.

49. The international community and States should do more to strengthen education, training, awareness-raising and development because they were important bulwarks against isolation, disenchantment and radicalization of youth. With regard to ensuring that counter-terrorism measures respected human rights, the Counter-Terrorism Implementation Task Force Office had developed basic human rights reference guides and specific modules to build the capacity of law enforcement bodies. The Counter-Terrorism Implementation Task Force Office worked with a wide range of national and regional partners, most recently the African Union, to ensure their compliance with the United Nations Global Counter-Terrorism Strategy. It conducted training for police, worked with partners to combat the financing of terrorism and collaborated with national actors to find ways to build trust between civil society actors and the security establishment. However, such capacity-building interventions threatened to be undermined by the corrosion of State legitimacy that occurs when a State undertakes counter-terrorism measures that disrespect due process.

50. Several delegates referred to the need to tackle the root causes of terrorism, including by preventing the spread of violent extremism through different media. One delegate's Government had engaged in preventive actions against terrorism, published a list of wanted persons, worked with international organizations to bring perpetrators of terrorism to justice, created a rehabilitation centre to provide intellectual rehabilitation for former terrorists and provided significant financial support to an international counter-terrorism centre in 2005. The delegate stated that international efforts should focus on three vital dimensions: prevention, deterrence and security, and policymaking.

51. Member States highlighted the need for more global coordination. Regarding coordination efforts, one delegate's Government had coordinated with counter-terrorism and judicial practitioners worldwide, including at the International Centre for Counter-Terrorism, in the Netherlands, and the International Institute for Justice and the Rule of Law, in Malta; another delegate stressed that success in the fight against terrorism went hand in hand with progress in strengthening cooperation and exchange of information at the international, regional and subregional levels and it had worked as part of the global initiatives against international terrorism.

V. Conclusions

52. **In their concluding remarks, the panellists highlighted the enduring value of the United Nations Global Counter-Terrorism Strategy, which remains of core relevance almost 10 years after its adoption. While the fourth pillar of the Strategy specifically focuses on human rights, it was emphasized that the entire Strategy rests on human rights principles. Respect for those principles is a prerequisite to any effective counter-terrorism response. Measures taken in breach of these principles**

only serve to foster a sense of injustice; they can have a corrosive effect on the legitimacy of a State in the eyes of the people and undermine all the pillars of the Strategy.

53. In terms of the practical application of human rights principles, the panellists referred to the existing guidance relating to the implementation of counter-terrorism measures in a manner that complies with human rights, including the collection of best practices compiled by the previous Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin. The panellists also noted the need for strengthened cooperation between States, international organizations and civil society to assist in finding human rights-compliant solutions to challenging issues, such as responding to threats posed by foreign fighters.

54. Finally, the panellists highlighted the importance of ensuring and fulfilling the rights of victims of terrorism. Victims of terrorism need to be given access to information and to have a real voice in society. While having a voice is their right, it could also be an integral part of a preventive strategy, whereby victims provide a compelling counter-narrative of the horrific and destructive impact of terrorism on people's lives.

55. Recent developments have brought to the fore the issue of conditions conducive to terrorism, which is the focus of the first pillar of the Strategy and closely linked to the issue of respect for human rights while countering terrorism. While there was remarkable consensus on what constituted conditions conducive to terrorism at the time that the Strategy was developed, insufficient action on that point has been taken. Therefore, the emphasis on preventing and countering violent extremism, including through the Secretary-General's forthcoming plan of action on the issue, is much needed.